

**Filed 10/22/13 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2013 ND 179

Brian L. Sweeney,

Plaintiff

v.

Dawn M. Kirby,

Defendant and Appellant

No. 20130152

Appeal from the District Court of Cass County, East Central Judicial District,
the Honorable Steven L. Marquart, Judge.

AFFIRMED.

Per Curiam.

Brian L. Sweeney, plaintiff; no appearance.

Vanessa Rose Berge, 808 3rd Avenue South, Suite 203, Fargo, ND 58103, for
defendant and appellant; submitted on brief.

Sweeney v. Kirby
No. 20130152

Per Curiam.

[¶1] Kirby appealed the order of the trial court denying her motion to modify primary residential responsibility of the parties' minor child. Kirby argues she provided sufficient evidence to grant her request to modify primary residential responsibility. We hold the court's determination that Kirby did not establish there had been a significant or material change in circumstances is not clearly erroneous, and we affirm the order under N.D.R.App.P. 35.1(a)(2).

[¶2] Gerald W. VandeWalle, C.J.
Mary Muehlen Maring
Carol Ronning Kapsner
Dale V. Sandstrom
Daniel J. Crothers